

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

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Acting Secretary

March 8, 1999

RECEIVED

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FCC MAIL ROOM

Hon. Magalie Roman Salas
Secretary
Federal Communications
Commission
1919 M Street, NW
Washington, D.C. 20554

Re: In the Matter of the Development of a National
Framework to Detect and Deter Backsliding to
Ensure Continued Bell Operating Company Compliance
with Section 271 of the Communications Act Once
In-Region InterLATA Relief Is Obtained.
RM No. 9474

Dear Secretary Salas:

The New York State Department of Public Service (NYDPS) submits this letter in response to the February 5, 1999 notice inviting comments on the Allegiance Telecom, Inc. (Allegiance) petition requesting that the Federal Communications Commission (Commission) institute a notice of proposed rulemaking to establish national backsliding prevention measures as a condition for Regional Bell Operating Company Section 271 entry.

Effective backsliding prevention measures are an important means of ensuring that local exchange markets remain open to competitive entry. However, because we will have an enforceable backsliding framework in place in connection with

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Bell Atlantic-New York's 271 application,^{1/} the NYDPS does not see the need for a Commission rulemaking in this area. The New York State Public Service Commission (New York Commission) has established comprehensive carrier to carrier performance measurements, standards and reporting guidelines.^{2/} Self-executing enforcement mechanisms are being developed to ensure compliance with those standards.^{3/} The NYDPS will carefully monitor the enforcement of this regime.

The Commission should not disrupt state backsliding detection and deterrence plans that are in place or will subsequently be developed. If the Commission chooses to pursue a rulemaking, the NYDPS joins with petitioner in emphasizing that

^{1/} Bell Atlantic-New York's Section 271 Pre-filing Statement reflects its position that the NYDPS is the first line of authority for enforcing the backsliding provisions. Case 97-C-0271 - Petition of New York Telephone Company for Approval of its State of Generally Available Terms and Conditions Pursuant to §252 of the Telecommunications Act of 1996 and Draft Filing of Petition for InterLATA Entry Pursuant to §271 of the Telecommunications Act of 1996 (Pre-filing Statement).

^{2/} The performance standards were developed in a collaborative process with Bell Atlantic-New York and a number of its competitors, based, in large part, upon review and analyses of data received from Bell Atlantic-New York after the New York Commission's adoption of interim guidelines for a trial period ending December 31, 1998. Case 97-C-0139 - Proceeding on Motion of the Commission To Review Service Quality Standards for Telephone Companies, Order Approving Interim Guidelines for Carrier-to-Carrier Performance Standards and Reports (Interim Guidelines Order)(issued March 16, 1998). Based upon that experience, the New York Commission issued a further service quality order which contains additions and refinements to the metrics and standards originally included in the Interim Guidelines Order. Case 97-C-0139 - Proceeding on Motion of the Commission to Review Service Quality Standards for Telephone Companies, Order Adopting Inter-Carrier Service Quality Guidelines (issued February 16, 1999).

^{3/} \$150M annually has been designated for market adjustments in the event that Bell Atlantic-New York's performance decreases. Pre-filing Statement, App.5, p.5.

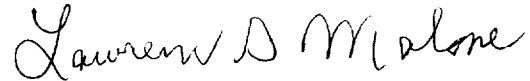
Hon. M. R. Salas
NYSDPS Comments/Backsliding

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March 8, 1999

any Commission rulemaking should not preempt state action, but should only serve as a default standard where state standards are lacking. We further urge the Commission that any proposed federal complaint process not limit the ability of states to conduct independent enforcement proceedings.

Sincerely,

A handwritten signature in cursive script that reads "Lawrence G. Malone".

Lawrence G. Malone
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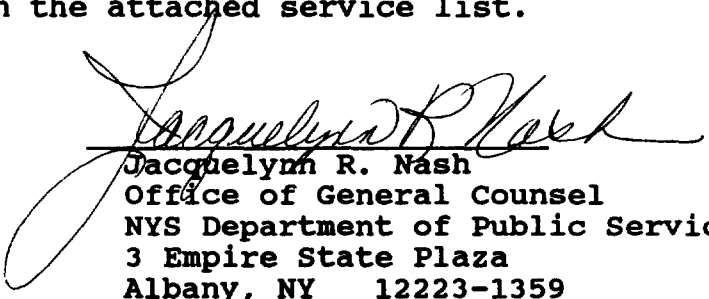
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In the Matter of the Development of a
National Framework to Detect and Deter
Backsliding to Ensure Continued Bell
Operating Company Compliance with Section 271
of the Communications Act Once In-Region
InterLATA Relief is Obtained

Petition for Expedited Rulemaking --
Allegiance Telecom, Inc.

I, Jacquelynn R. Nash, hereby certify that an original and five (5) copies of these Letter Comments in the above-captioned proceeding were sent via Airborne Express to Magalie Roman Salas, Secretary of the Federal Communications Commission. In addition, copies were sent via First Class Mail, postage prepaid, to all parties on the attached service list.



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